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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/319,764 09/09/99 HOUGHTON

B 8436.63USWO

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QMD2/0428

EXAMINER

TAPOLCAI, W

ART UNIT

PAPER NUMBER

3744

DATE MAILED:

04/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.
09/319,764

Applicant(s)
Houghton et al

Examiner
William Tapolcai

Group Art Unit
3744



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-28 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Saether. Saether discloses a mixing valve having first and second disk members 16 and 17 which are arranged in sealing contact and are variably aligned to vary the flow of fluid therethrough by an electric motor 41.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saether. Saether discloses the claimed invention except for the two valve subunits. The recitation of two valve subunits is considered to be a mere recitation of duplicate parts which is not considered to be patentable in itself, especially since Saether discloses all of the other claimed elements.

5. Claim 16 recites the limitation "the at least one electric motor" in line 2. There is insufficient antecedent basis for this limitation in the claim.


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6. Claim 18 recites the limitation "the at least one electric motor" in line 2. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 19 recites the limitation "the controller" in line 1. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 21 recites the limitation "the at least one sensor" and "the at least one parameter" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 22 recites the limitation "the at least one given parameter" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.
10. Claim 23 recites the limitation "the controller" in line 2. There is insufficient antecedent basis for this limitation in the claim.
11. Claim 25 recites the limitation "the one or more manifold outlets" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.
12. Claim 26 recites the limitation "the at least one parameter" in line 2. There is insufficient antecedent basis for this limitation in the claim.
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (703) 308-2640. Faxes should be sent through the fax number (703) 308-7764. Emails should be sent to william.tapolcai@uspto.gov.

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William E. Tapolcai
Primary Examiner,
Art Unit 344

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April 26, 2000